O/Evidence/53

1953. **File No.** 54/53

Legal Department

PHE G **BRANCH**

Subject:- Opinion on the Indian Evidence Act

O/Evidence/53.

File No. 54/53

Gen. 194 e.

54/53.

C O N T E N T S.

Legal Department File No. O. Evidence/53.

Sr. No.	R.I. / O. No.	Subject	Pages.
		Opinions on the Indian Evidence Act.	
1.	145.	Sections 63 and 64. Whether the court can reconstruct the record of the case as it has been lost.	1.
2.	~~421~~ 7-53.	Whether there is any objection to permit the Solicitors to inspect the daily reports.	3.
3.	~~578~~ 9-53.	Whether a suit can be filed against the Sentinal Assurance Co. for loss sustained by Government.	5.

EVI. 14/8.

Office of the R.L.A.

Indian Evidence Act, 1872.

sections 63 and 64.

Under section 63 of the Indian Evidence Act in the absence of any copy or counterpart of the document the only secondary evidence that could be given was the oral account of the contents of the document given by some person who has seen it. As stated by the Civil Supplies Department the evidence of the committing Magistrate who had seen the document would have been good secondary evidence under section 63(5). But the learned Additional Session Judge did not rely on the depositions of panchas or patils as cortended by the Civil Supplies Department. When the original is lost, any secondary evidence of the contents of the document is admissible under section 64(c) of the Indian Evidence Act. In this case the learned Additional Sessions Judge has allowed prosecution to lead evidence from the books which contained the exact figures declared on 5th April 1947. This is reconstructing the record. When the record of the case is destroyed, the court can reconstruct the record. (P. 500 of Monir on Evidence 2 Edn.). The procedure followed by the Additional Sessions Judge is free from legal objection.

As regards the lose of Exhibit, it is not clear from the papers whether the Magistrate who committed this case to the sessions is under the superintendence of the High Court. It will be necessary to ascertain this before any opinion is expressed on this point.

Sd/-

Remembrancer of Legal Affairs.

U.R. to C.S.D., No. G-145, dated the 5th March 1953.

EVY. 14/3.

Legal Department.

In their letter dated the 23rd February 1953 Messrs. Vakharia and Company, Solicitors on behalf of their clients Laxmiben Jhaveri and Rawji Devkaran have requested the Director of Civil Supplies (Fuel and Fodder to give them an inspection of the daily reports submitted to ~~xx~~ him in respect of the stock and sales of the stock by Shri Lodi at the Mahim Railway yard. This Department is requested to advise whether there is any objection to permit the Solicitors to inspect the daily reports.

It is stated by the Civil Supplies Department that so far as Shri Lodi is concerned no sales were effected from the 9th February 1953 onwards. It appears that the reports of which inspection is sought are the reports submitted by the Depot Inspector to the Civil Supplies Department in respect of daily arrivals and sales at Mahim Railway yard. These are called for by the Civil Supplies Department in order to know the daily supply position of charcoal. It would not be proper to allow the solicitors to take inspection of the Government's record in connection with the enforcement of compromise arrived at between private parties dealing in and financing charcoal business. It would therefore be advisable to refuse to grant the Solicitor's request.

Sd/-

Additional Secretary to Government.

U.R. to C.S.D., No. G-421, dated the 16th July 1953.

EVY. 14/8.

Legal Department.

In letter dated the 16th October 1950 the Managing Director of the Sentinel Assurance Company has stated they have scrutinised the merits of the claim once again and as Government were able to satisfy them that they were genuine losses, their Board of Directors were pleased to accept the liability in respect of the 4 crafts. They further agreed to settle the claims without calling for more documents. As the company has now repudiated the claim and withdrawn the acceptance the matter is to be taken to a court. The letter of acceptance would go a long way in support of our claim but once a suit is filed, Government will have to prove total loss and all other evidence in support of our claim. The court would not grant the relief depending only on the letter of acceptance which is subsequently withdrawn.

Sd/-

Additional Secretary to Government.

U.R. to C.S.D., No. G-578, dated the 22nd September 1953.

EVY. 14/8.